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ABSTRACT

The purpose of this report is to review empirical evidence on the relationship between the faculty senate and the bargaining agent. A review of the literature concerning the impact of faculty bargaining indicates that there is little published research to support or reject hypotheses concerning the impact of faculty bargaining on senates. As a consequence, primary reliance has been placed on preliminary findings from an ongoing study of the 26 public institutions of higher education in New Jersey engaged in faculty bargaining. This examination of the interactions between bargaining agents, senates, and administrations indicates that there are a number of patterns evolving for faculty participation in decisionmaking under collective bargaining that do not necessarily lead to the demise of traditional procedures. The evidence to date suggests that where traditional systems of governance have been an integral part of the structures and expectations of the participants at an institution, the collective bargaining system that evolves will reflect and reinforce these contextual factors. (Author/PG)

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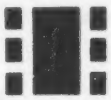

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SPECIAL REPORT #5

Faculty Governance and Collective Bargaining: An Early Appraisal*

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Introduction

One of the most common generalizations concerning the impact of faculty bargaining has been that traditional modes of faculty participation, particularly the institution-wide or system-wide governing bodies such as senates, will deteriorate in competition with the collective bargaining process. One report(1) indicated that the senates would "atrophy" in competition with external bargaining agents. These predictions about the faculty senates in the context of collective bargaining are apparently derived from a belief that there is a basic competition between the two forums for faculty input to decision-making. For example, it has been said that "Unionization in academe currently represents the substitution of one form of academic governance for another, whatever the institutional setting."(2)

However, the potential range of outcomes would appear to be somewhat broader. Under appropriate circumstances one could envision at least the following possibilities: the complete replacement of traditional procedures by the bargaining process; the emergency of a dual but co-existing form of governance as indicated by (a) the incorporation and protection of traditional procedures within the contract or (b) the development of separate systems of faculty participation (one for negotiable economic and personnel matters, the other for educational policy issues which

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* Statements made and views expressed are solely the responsibility of the author.

(1) Faculty Participation in Academic Governance, American Association of Higher Education, 1967.

(2) Terrence N. Tice (ed.), Faculty Bargaining in the Seventies, Institute of Continuing Legal Education, University of Michigan, 1973, at p. 129.

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may or may not be negotiable); or, finally, (c) the improvement of senate operations in competition with bargaining to the point that the bargaining agent is undermined.

While most of the bargaining relationships in four-year institutions are less than five years old, distinct patterns of senate-bargaining agent relationships are beginning to emerge.

The purpose of this report is to review empirical evidence assembled to date on these developing relationships. Thus, the emphasis of the discussion will be on "what is" rather than "what will be" or "what should be". A review of the books and articles concerning the impact of faculty bargaining indicates that there is little published research to support or reject hypotheses concerning the impact of faculty bargaining on senates. As a consequence, primary reliance has been placed on preliminary findings from an ongoing study of the twenty-six public institutions of higher education in New Jersey engaged in faculty bargaining.* Other data sources included contracts from most four-year institutions now bargaining, as well as numerous conversations with parties from both sides of the table at these institutions. Newspaper accounts of bargaining activities and articles by participants in the bargaining process were also examined.

The Effects

Two criteria will be used to examine the effects of collective bargaining on senates - changes in senate structure and changes in senate decision-making authority. Certainly the most severe effect of faculty bargaining on senates would be the complete dismantling of traditional senates. David Reisman reports that presidents from organized colleges and universities "find that a union tends eventually to weaken the power of the Faculty Senate, even though during a transition period they may have to deal simultaneously with both the union and the senate."(3)

However, there is no evidence to support a conclusion that collective bargaining has led to a significant dismantling of the traditional institution-wide or system-wide governance procedures such as senates or faculty councils. To date, none of

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*The study was made possible by funds from the Carnegie Corporation of New York. However, the statements made and views expressed are solely the responsibility of the author.

(3) David Reisman (ed.), Academic Transformations, Carnegie Commission on Higher Education, 1973, at p. 425.

the four-year institutions which have been bargaining has reported that faculty senates have ceased to operate, including those institutions which have been organized the longest, for example, St. John's University, Central Michigan University, City University of New York (CUNY), State University of New York (SUNY), Southeastern Massachusetts, the New Jersey State Colleges and Rutgers University, In fact, at Central Michigan University and Rutgers University there is some feeling on the part of the administration that the senates are participating more actively in policy deliberation than before the onset of collective bargaining. President Boyd of Central Michigan was quoted[4] as saying that the senate has "stopped talking about governance and started governing." In commenting on faculty bargaining, President Bloustein of Rutgers said that ". . . our University Senate's range of authority has broadened . . ."[5]

In one of the two-year institutions in New Jersey, the faculty senate did vote to dissolve itself in the early stages of collective bargaining. In this instance, the bargaining agent leadership, which also was the senate leadership, could not see a solution to the competition they felt between governance and collective bargaining. A difficult bargaining relationship and the newness of the institution and its governance system (which had been designed by the administration before the faculty arrived) no doubt contributed to this result. Interestingly, in the current negotiations at this institution, both parties came to the bargaining table with proposals concerning the development of a new senate. While the parties are at a bargaining impasse on a number of issues, governance is not among them. A new governance system is scheduled to begin operations shortly.

Where governance has been more firmly established, like most of the four-year institutions noted above, the governance structures have not been so easily dismantled. Indeed, at the College of Medicine and Dentistry of New Jersey, the bargaining agent (AAUP) has supported the establishment of faculty personnel procedures and a governance system outside the contract. At Boston (AFT) and Worcester (AFT) State Colleges in Massachusetts, the entire governance systems have been incorporated into the contracts. Thus bargaining in these instances has reinforced, and not dismantled governance.

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(4) Chronicle of Higher Education, November 26, 1973, at p. 11.

(5) Speech given before the Association of American Colleges in San Francisco, January 14, 1973.

Another indication of the impact of bargaining would be the extent to which pre-bargaining senate decision-making authority has been eroded by faculty bargaining. One source of information on the possible erosion of senate decision-making is the content of the collective bargaining agreements which have been negotiated. A review of collective bargaining agreements negotiated in four-year institutions indicates that there is a wide variation in the scope of issues covered in the contract. At one end of the continuum is the brief Rutgers (AAUP) agreement which contains salary provisions, grievance procedures and related items such as a non-discrimination provision and a maternity leave provision. The Senate's jurisdiction over changes in faculty personnel procedures (appointments, reappointments, tenure and promotions) and educational policy has not been reduced by the bargaining process.

The Central Michigan (NEA) agreement, though covering a somewhat broader range of issues than the Rutgers agreement, contains neither educational policy provisions nor provisions related to faculty personnel procedures (appointment, promotion and tenure procedures), or working conditions such as sabbaticals and workload. At the State University of New York, where the parties reportedly are trying to maintain a dual governance system, the contract between the Senate Professional Association (a merged NEA-AFT unit) and the SUNY administration can be described as an umbrella agreement which includes few specifics. No traditional governance issues are contained in the agreement, nor are there committees set up by the contract involving the union in governance areas.

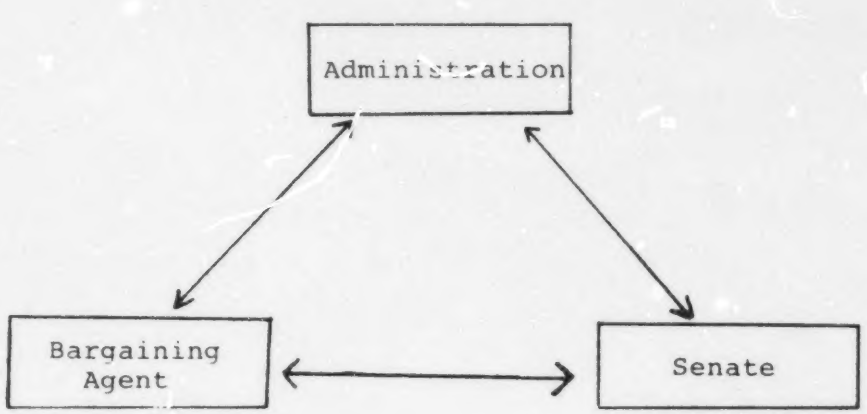
The St. John's (AAUP) contract contains a broader range of issues, many of which are matters often considered by senates. The contract contains provisions dealing with appointment, tenure and promotion policy, selection of deans and department chairmen, department chairmen responsibilities, teaching loads and course scheduling. The contract also sets the percentage relationship between part-and full-time faculty. Importantly, an advisory calendar committee is established in the contract, with joint administration-union-student membership, but no senate membership.

Similarly, the City University of New York contract with the Professional Staff Congress (a merged AFT-NEA unit) deals with issues on which faculty input previously could have come through other governance mechanisms. For example, provisions for appointments and reappointments, a continuous employment system for lectures, a general workload statement, professional evaluation, the number of promotional opportunities, and distinguished professorships are all included in the agreement. Since the system-wide senate began operations only a year prior to collective bargaining, it would be difficult to conclude that the bargaining agent had usurped the authority of this body, though the senate may have been prevented from acquiring authority in these areas. Individual institutions, however, have had faculty councils for a number of years.

Among the most extensive agreements negotiated in four-year institutions to date are probably those at the University of Rhode Island (AAUP) and the Pennsylvania State Colleges (NEA). But in these instances there is still little intrusion into educational policy issues such as admissions policy, curriculum, degree requirements, grading policy or the development of new programs. Even the more comprehensive contracts from two-year institutions seldom deal with educational policy issues of this type. Thus, the substantive jurisdiction of senates in the area of educational policy has for the most part appeared to remain intact. To the extent that senates dealt with faculty salary and personnel matters before bargaining, the jurisdiction of the senate at some institutions has been reduced. Indeed, the trend appears to be in the direction of greater union involvement in negotiating matters such as sabbaticals, appointment, promotion and tenure procedures and workload. A summary of faculty workload provisions[6] indicates that the issue of faculty workloads has been and is increasingly likely to be the subject of negotiations.

The above evaluation of two possible criteria for assessing the impact of faculty bargaining on senates (changes in senate structure and decision-making jurisdiction) has indicated that major alterations in senate operations have not yet occurred at most institutions now negotiating. The explanation for this result derives in large measure from the evolution on many campuses of a balance between three sets of relationships: bargaining agent-senate relationships, administration-senate relationships, and bargaining agent-administration relationships. Figure 1 illustrates these relationships.

FIGURE 1



[6] National Center for the Study of Collective Bargaining in Higher Education (Baruch College), Newsletter, Vol. 2, No. 1, January/February 1974.

Bargaining Agent-Senate Relationships

The AAUP president at Rider College in New Jersey was quoted as saying that all faculty committees and governance structures should be considered as inputs to the collective bargaining process. The administration at CUNY feels that the Professional Staff Association wants to negotiate everything to the detriment of other means of governance. However, it appears that in most instances the relationships developing between the bargaining agents and the senates fall short of being directly competitive in nature.

The relationships developing between faculty bargaining agents and senates are quite varied and range from essentially informal ties to highly formal arrangements. At Rutgers University, for example, the bargaining agent-Senate relationship is informal in that the AAUP has neither a formal organizational relationship to the Senate nor do AAUP leaders occupy leadership positions in the Senate. The AAUP does provide informal input to Senate Committees and the president of the AAUP is given the Senate floor to speak to issues. Joint AAUP-Administration proposals are also sometimes submitted to the Senate for its recommendations. For example, changes in the tenure system and the development of a faculty academic study leave plan originated in the bargaining forum and then were submitted to the Senate for its recommendations. Neither of these items appeared in the contract, though bargaining agent input was important in stimulating and shaping the policy changes.

As another example of an informal bargaining agent-Senate relationship, the AAUP at the College of Medicine and Dentistry of New Jersey supported the development of faculty personnel procedures and a governance system external to the bargaining agreement. The AAUP did not participate as an organization in the development of the governance procedures, though individual members were active in the study committee. The AAUP did negotiate a provision within the contract which required the by-law changes to be approved by a certain date or the AAUP would have the option of opening negotiations on the issues involved. The by-laws were approved on time.

At other institutions, the bargaining agent-Senate relationships have become more formalized. The next level of formalization is represented by the development of dual bargaining agent-Senate leaderships which did not result from changes in the by-laws or the constitution of the Senates. This has occurred at a number of New Jersey State and community colleges, CUNY, Central Michigan, and St. John's among others. In some instances, the bargaining agent campaigned to have its supporters elected, for example, in several of the New Jersey State Colleges (AFT). In other instances, the dual leaderships derived from the fact that senate leadership was active in union organizing drives initially, for example, at the Newark College of Engineering and CUNY. In none of the institutions described thus far, however, have senate regulations been

changed to provide bargaining agent leaderships with an official role in the Senate.

A higher level of formalization of bargaining agent-senate relationships is indicated by the existence of devices for defining bargaining agent and senate jurisdiction. At St. John's University, a special Senate committee has been formed to coordinate the activities of the bargaining agent and the Senate. A similar committee was suggested at Rutgers University but it never came to fruition. At one of the New Jersey State Colleges, the union (AFT) proposed an administration-union committee which would decide whether issues should be handled in the governance or the bargaining forums; however, this was unacceptable to the administration. At a new Jersey community college (NEA), the constitution of the representative legislature defines the respective jurisdiction of the bargaining agent and the legislature and sets up a committee to resolve conflicts.

The most formal relationships between bargaining agents and senates to develop are those at Boston State (AFT) and Worcester State (AFT) Colleges in Massachusetts. At these institutions, new governance systems were developed in the negotiating process and incorporated into the agreements. Moreover, the bargaining agent at Worcester has a formal role in the All-College Council set up in the agreement wherein two of the six faculty seats are held by the president and vice-president of the AFT. The contract also sets up four standing committees dealing with undergraduate curriculum, graduate education, admissions and college affairs which report to the Council. The faculty and student members of these committees are elected from their respective constituencies. Thus, at these institutions, the procedures providing for faculty input on a wide range of issues have been negotiated and incorporated into and protected by an agreement. In a sense, the bargaining agent has agreed to delegate some of its direct authority, but in exchange it has acquired a formal role in that body.

No other institutions with bargaining relationships appear to have institutionalized bargaining agent-senate relationships to this extent. Indeed, it developed in Massachusetts, in part, because the negotiations occurred in a context in which economic items were non-negotiable. However, there has been some pressure at other institutions, for example, Central Michigan University, to include governance procedures in the contract so that the procedures cannot be unilaterally changed.

The consensus appears to be that the growing formalization of bargaining agent-senate relationships has enhanced the development of cooperative rather than competitive relationships between these decision-making forums. Without such relationships, agreeing to refer issues to traditional forums is a somewhat risky business for bargaining agents. This is because there is no guarantee that a senate which might contain different constituencies (faculty not supporting bargaining, administrators not involved in bargaining, students and competing union organizations) will produce results which are acceptable to the bargaining agent. But by

developing dual leaderships and memberships, bargaining agents are more secure and thus more willing to help preserve traditional senates.

In the final analysis, senates will likely retain authority only to the extent to which they are responsive to problems. Where they fail to act, the bargaining agent is likely to take the initiative. As an example, it is reported that at St. John's University a provision defining the responsibilities of department chairmen was negotiated only after lengthy senate deliberations failed to make acceptable recommendations in this area. However, as the scope of negotiations becomes defined through experience and through administrative and legal decree, faculty input on non-negotiable matters may come through the traditional senate. Thus, consultation on non-negotiable matters would come through the senates rather than the bargaining agent leadership, as it would in a traditional union situation.

Administration-Senate Relationships

The views and behavior of the administration in regard to governance in the bargaining context are equally as important as those of the bargaining agent in shaping the future role of senates in academic governance. What seems to be occurring at a number of institutions is that the relationship between the administration and the senate has become more independent. Administration-senate relationships which previously involved frequent informal contacts between the senate leadership and the administration have started to move apart. An open sharing of information has diminished. In some instances, where the issues deliberated by the senate were in the past primarily those presented to it by the administration, the senates have started to act rather than react, often without consulting the administration prior to acting. At a New Jersey college, for example, a faculty council has taken the initiative on a number of occasions without consulting the president. In the past, the president was almost always consulted. At a state college (AFT) in New Jersey, the senate leadership moved out of the same building with the administration because it wanted to become more independent from the administration. The close consultation which previously existed has diminished. In another instance, the Senate at CUNY, with active Professional Staff Congress participation, voted "no confidence" in the Chancellor over the establishment of tenure quotas by the Board of Higher Education.

Administration-senate relationships may be changing because of the formalization of the bargaining agent-senate relationships noted above, in which the senates are controlled or prodded to act by the bargaining agents. Alternatively, senate leaderships may be realizing that senates must take a more active role in policy making if the senates are to be protected against collective bargaining. But partly as well, the changing administration-senate relationships are due to the reactions of administrations.

Often an administration starts to draw back from an open relationship because it has become unsure of the senate's role in decision-making in the context of collective bargaining, particularly in situations where the bargaining agent has control of the senates.

However, in a number of instances administrations have taken an active role in the development of particular bargaining agent-senate relationships. The shape of the contracts at Boston and Worcester State Colleges and the philosophical basis which put tripartite governance (faculty-student-administration) into the collective bargaining agreements stemmed in a major way from the administration. The Rutgers administration played an important role in developing the notion of a multi-faceted approach for handling different kinds of issues and in maintaining traditional governance. Certainly, Central Michigan offers a model where a developed administration position on governance and collective bargaining helped shape the context of the first two contracts.

If experiences to date are a guide, realistic evaluations by administrations of the continuing role of senates in the context of collective bargaining which recognize bargaining agent security needs are likely to enhance the development of workable bargaining agent-senate relationships. A caveat is in order, however. In instances where the effective management authority is above the local institutional level (for example, in large public systems), it is unlikely that in the long run the senate will be perceived by the faculty or bargaining agents as providing an effective voice on anything other than issues over which the local administration has jurisdiction. Thus the formation of workable bargaining agent-senate and administration-senate relationships is affected in a major way by the loss of authority in a system of higher education. At SUNY there is a centralized senate system which eases the relationship problems between bargaining and governance, but in the New Jersey State Colleges there is no centralized senate system.

Bargaining Agent-Administration Relationships

The type of bargaining relationship which develops in a given academic environment is also extremely important in shaping the fate of traditional faculty governance. In the faculty bargaining context, it appears that the problem-solving exchange of a cooperative relationship is an important prerequisite to a compromise between traditional modes of faculty governance and the collective bargaining process. A high conflict, adversary relationship is certain to interfere with efforts to preserve traditional faculty inputs because the issues with which the parties will be willing to deal outside the contract will most likely be affected by the bargaining relationship. Moreover, the bargaining agent-senate relationships are more likely to be competitive rather than cooperative. The adversarial bargaining relationship at CUNY has certainly not enhanced the role of governance at that institution. The two-year college in New

Jersey in which the senate was abolished is an example of what could ultimately occur as a consequence of an adversarial relationship.

The factors which produce certain kinds of bargaining relationships are complex, often historical and often not under the control of the parties (for example, governing boards and external authorities may by-pass or undermine local authorities). Nonetheless, the most workable interactions between bargaining agents, senates and administrations developed to date derive from bargaining agent-administration relationships on the cooperative rather than the competitive end of the relationship continuum. Examples include Rutgers, Central Michigan, and Boston and Worcester State Colleges. Relationships at Central Michigan did become somewhat strained this past year when the University refused to negotiate over retrenchment problems which had arisen since the conclusion of the last contract negotiations. While the parties subsequently agreed to retrenchment procedures, the initial University posture contributed to the belief of one bargaining agent official that governance procedures should be in the contract.(7) Thus, it is evident that the type of bargaining agent-senate relationship a particular bargaining agent is willing to live with is directly related to the degree of security it feels it needs against unilateral administration decision-making. An adversary bargaining relationship tends to intensify the need for a bargaining agent to exert greater control over traditional senates.

Summary

Certainly, a complete assessment of the impact of faculty bargaining on governance would include an analysis of changes in committee structures and jurisdictions in the context of collective bargaining as well as an analysis of the changes brought about in the peer judgment process by negotiated grievance procedures. But this examination of the developing interactions between bargaining agents, senates and administrations indicates that there are a number of patterns evolving for faculty participation in decision-making under collective bargaining which do not necessarily lead to the demise of traditional procedures. Almost entirely absent to date is the traditional union model in which all faculty input to decision-making is channeled entirely through the bargaining agent. There is some indication that broad-based faculty input may be preserved through procedural arrangements negotiated in the contract such as Boston and Worcester State Colleges. But

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(7) Joyce Pilotte, The Chronicle of Higher Education, November 26, 1973, at p. 11.

the far more prevalent model of faculty decision-making at most institutions involves less institutionalization of the bargaining agent-senate relationship.

In the long-run what is likely to evolve out of the security needs of bargaining agents is some combination of broad-based faculty participation through governance procedures which are established or protected in the agreement, and faculty participation through a bargaining agent. The exact mix of the procedures for faculty participation which evolve and the issues which are dealt with by the various procedures will likely depend on contextual factors in a given situation. The extent of governance before collective bargaining, the attitudes of the bargaining agent and the administration concerning the role of the senate, the nature of the bargaining relationship and a number of forces external to a particular institution are undoubtedly important considerations. The evidence to date suggests that where traditional systems of governance have been an integral part of the structures and of the expectations of the participants of a particular institution, it is not unreasonable to expect that the collective bargaining system which evolves will reflect and re-inforce these contextual factors.

March, 1974